

LEGAL AND LEGISLATIVE COMMITTEE
FEBURARY 8, 2011
3:15 P.M.

Councilman Murphy, Chairman, called the meeting of the Legal and Legislative Committee to order with Councilmen Rico, Gilbert, Ladd, Berz, Scott, Benson and Robinson present. Councilman McGary joined the meeting later. City Attorney Michael McMahan and Assistant Clerk to the Council, Shirley Crownover, were also present.

Others present included Dan Johnson, Bryan Shultz, Karen Rennich, Dickie Hutsell, Jim Templeton, Jerry Stewart, Gary Hilbert, Dardee Long, Mike Patrick, Richard Beeland, Karen Walsh, Al Chapman, Ron Swafford, Steve Leach, Bill Payne, Marie Chinery, Robin Derryberry, Gary Chazen, Dr. Mickey Meyers, Daisy Madison, Chief Dodd, Chief Kennedy and Lee Norris. Mayor Littlefield joined the meeting later.

On motion of Councilman Rico, seconded by Councilwoman Ladd, the minutes of the previous meeting were approved as published.

BRIEFING BY FRIENDS OF THE ZOO

Chairman Murphy called on **Gary Chazen**. Mr. Chazen thanked the Council for allowing them to come to see them and the opportunity of getting in front of everyone. He noted that he was President of Friends of the Zoo and provided the following statement, *"As many of you know, the past days have been very difficult ones. With the loss of Hank as well as several other animals over a short period of time, we have questions that must be answered. We have reached out to the USDA as well as to our accrediting entity, the Association of Zoos and Aquariums (AZA) and asked them to come to the Zoo to inspect our facility. In addition, late last year we contracted with Schultz & Williams a highly regarded planning firm to take a look at our organization from top to bottom. They will guide us with our policies and procedures as we manage the operation of the Chattanooga Zoo. We are also awaiting the final necropsy reports on the animals we've lost. Once we have the above facts in hand, we will act responsibly, appropriately and quickly to make changes as necessary. We appreciate the support and concern for our animals and our dedicated staff. We look forward to providing you with answers as soon as possible"*.

Councilwoman Scott stated that she was disturbed to hear about the Leopard that was pregnant; that she assumed there were mortality problems with this type animal and perhaps two was the normal birth number rather than three.

Dr. Mickey Myers responded that there is an approximate 40% birth rate survival—that this is a problem whether the animal is pregnant or not; that they did not do an ultrasound because of the danger involved; that looking through the records with Snow Leopards there were only nine

births ever; that because of the time of the year most felt there was no way she could be pregnant; that there were only three living cubs born in these months (December, January and February). He went on to say that it was easy to say “why was she not inside and in bed and away from the male”—that the decision was made by the University of Tennessee, and it was standard protocol; that if the female is separated too soon, she is more likely to lose cubs; that in hindsight, this mistake won’t be made again; that they were following the best advice they had.

Councilwoman Scott noted that when you have a male and female together and she does not ovulate on a regular cycle, one would have to assume pregnancy or make sure she was not pregnant; that ultrasounds are used all the time on humans, and it was hard for her to understand that they knew about the pregnancy only the day before a birth; she questioned someone just being aware of the pregnancy at the point of delivery—a full time delivery.

Dr. Myers responded that this was a wild Snow Leopard and that ultrasounds can be very dangerous because of anesthesia, which would outweigh the benefits, and it was not their call—that they relied on those that had dealt with this for years and years; that a Vet on their staff looked at her for a few days; that the day before she delivered, they thought she was not pregnant—that you can’t tell by looking.

Councilman Benson stated that he had to look at the Zoo in the long-run, and they had come a long way; that their inventory of animals was up; that this Zoo and Staff had faithfully done the best they could; that he understood not knowing that the Leopard was pregnant—that when he was a teacher, they had a girl in school that they did not know was pregnant; that he had a lot of faith in them, and he thanked them for the improvements at the zoo.

Mr. Chazen responded that they took this seriously—the loss of this many animals; that it was a “perfect storm”; that they loved their animals and took this seriously—that the animals was their first priority.

Councilwoman Berz also complimented them on a good job, stating that it was a “perfect storm”. She stated that she had been interviewed by one of the planners and was very impressed. She asked when we could expect the report?

Mr. Chazen responded that a group would be visiting in the next two to three weeks, and the report would come soon after—that they were looking at policy procedures such as having enough staff or a more qualified staff; that they would tell them what they need; that they thought they had a good zoo, and it was accredited; that they wanted to be the best small zoo in America and have the right folks on board.

Councilwoman Berz stated that she looked forward to seeing this report.

Councilwoman Ladd stated that she appreciated their presence and staff and offered them her sincere sympathy; that these were pets and a lot of love was involved; that she was a pet lover, herself, and knew the pain—that they had been strongly affected; that a lot had happened in the media in trying to get a story and trying to get the facts across to the public to tell their story. She urged the Friends of the Zoo to get their story out also. She encouraged them to let the public know the life expectancy for some of the animals that they had lost. She mentioned Hank and his longevity expectancy, noting that he was within the range, and we knew he was a “senior”, as we all have problems when we become “seniors”—that when one is a “senior”, things can move quickly. She again urged that we make sure we get this information out concerning the life expectancy—that some of these animals were at an age when things will occur on a natural basis. She urged that we make sure the public hears all they need to hear.

Councilwoman Robinson echoed the sentiments of her colleagues and expressed her sadness concerning Hank. She stated that she did read about the challenges of dealing with these animals—that some come from a very stressed background and are sick and in a weakened condition; that the zoo provided an environmentally sensitive habitat for animals; that she had a reason to feel happy for the animals; that it was not a zoo where you feel sad for them. She went on to say that Shultz and Williams are not strangers to the community, and she thought the zoo had chosen wisely in using them and that she was anxious to get the report.

Mr. Chazen agreed that they had taken animals from the outside—that they were a caring zoo and that is what they did; that most zoos don’t take animals from the outside.

Chairman Murphy thanked the Zoo for their services and also thanked the Friends of the Zoo and Board members. He thanked everyone.

Mr. Chazen stated that it was a great pleasure and a labor of love; that the last few weeks had not been pleasant with the media and their comments.

CONTRACT WITH VOLKSWAGEN

Resolution 7(a) on tonight’s agenda concerning the amendment to the Interlocal Agreement between the City, Hamilton County, the Industrial Development Board, the Health Educational and Housing Facility Board, and Volkswagen relative to the Volkswagen Project was next discussed.

Chairman Murphy called on Attorney Mark Smith, who is with Wade Hinton.

Mr. Smith proceeded to give some background, noting that the Mayor’s Office had questions; that in preparing for today, this was esoteric, and he handed out an overview, that is made a

part of this minute material. He stated that as some would recall, the incentive package contained a Training Facility, which was State funded. It was part of the incentive, and the State provided the funding. He noted that the Interlocal Agreement governs the rights of the Industrial Development Board, the City of Chattanooga, and the County; that in September, we started looking at the payment in lieu of taxes (PILOT) and the Assessor's Office's tax treatment of the Training Facility—that we had felt that an educational facility would not be subject to taxation, but it appears the likelihood of leasehold taxation on the user (Volkswagen) and that they be assessed a tax for the use of the facility; that the PILOT covers Ad Valorem taxes and that there be a deduction for funds for use of the County School System—this would offset against the amount due by Volkswagen—that it was the intent of the parties from our standpoint that an academy not be taxed—an amount would go to the County School System.

He mentioned \$1 million dollars in lieu of tax payment and the proponent of Ad Valorem (Leasehold) with the County—a Leasehold Tax of say \$300,000, which the City and County would split. The impact works through the PILOT Agreement; that there would be an educational payment through the City and County of \$300,000, which would reduce the payment of Volkswagen and the total would still be \$1 million dollars and \$300,000 would not make it to the County School System. He noted that we would have to substitute some language for the existing initial agreement and the amounts paid in lieu of taxes would be for an educational benefit of the School System. He stated that he hoped the point was straightforward, and he would be happy to answer any questions; that they were working with the Mayor's Office and any issues Administration might have.

Councilwoman Scott stated that we had met previously, and she was not sure where we stood; that one of her concerns in talking about funding was matching funding; that all of the allocations are identified in our MOU—that there is language that we have to fund something, and she suggested not putting it in there if we don't know how much it is before we vote on it. She asked if this had been stricken?

Attorney McMahan responded "no"; that they were still working with the Draft Agreement and had to do some clean-ups; that there was no further funding from the original MOU; that this was language that we certainly could change.

Councilwoman Scott stated that she would like this done before the Council votes on this.

Councilwoman Berz asked which Assessor's Office they used and was told Hamilton County's. She stated that she needed to be clear—that the total payment by Volkswagen is \$1 million dollars and that will not change; that she was trying to understand Attorney Smith's interest in how this is divided up.

Attorney McMahan responded that the City and County taxes are not 50/50—that the County gets their share, and the City gets their share—it is then waived back to the school system.

Chairman Murphy stated that Attorney Smith had done a great job, and he thanked him for coming and explaining this. He verified that prior to next Tuesday, the Council would be able to review this.

TOWING ORDINANCE

Councilman Benson stated that there had been an oversight or mistake in the Towing Ordinance; that he would like the permission of this committee to put this on the agenda for next week—that there was one small condition having to do with the first 24 hours having no charge.

Chairman Murphy suggested that this be taken up in tonight's Council meeting.

Councilman Benson stated that he thought this was the proper place to explain this; however Chairman Murphy stated that it should be made a part of tonight's minutes—that the committee minutes are not typically published; however copies can be obtained. He stated that this could be taken up tonight.

Chairman Murphy asked if there were any questions on **Resolution (b)** on next week's agenda, whereby the Trustee will collect City Hotel Motel taxes at an annual cost of \$30,000? He stated that he thought this made sense.

TERM LIMITS FOR COUNCILMEMBERS

Chairman Murphy stated that Councilwoman Scott had asked for the floor on this issue.

Councilwoman Scott stated that she wanted to bring this matter before the Council; that this issue was being discussed in other city councils, and she suggested that we discuss term limits, and that this be placed on the ballot in 2012. She went on to outline her reasons for this. She stated that first, she believed if we had term limits there would be more rotation on the council that would make for new ideas and new perspectives; that it was a tremendous burden to run against an incumbent—that an incumbent had an enormous advantage over a citizen that was not as well known; that when new people run, it promotes a lot of civic interest and more involvement; that if there is a strong incumbent with a long time history, there is great hesitancy for one to even consider running.

She went on to mention a lot of different towns such as Los Angeles, New York City, San Antonio and Houston and towns all over America that are endorsing citizen legislation instead of professional politicians. She went on to say that many had been on the City Council for awhile, and they were wonderful, wise members, and this was not person to person; that it was her general thought that this would be an opportunity for leadership all over our city.

Councilman Rico stated that he hated to say anything since he was an incumbent; that he was asked to do this; that Councilwoman Scott said that an incumbent had an advantage, and he found this hard to understand from her viewpoint, since no one knew her when she ran against Linda Bennett; that the people can vote people out; that we all saw that the recall was another way to get people out. He stated that he had no problem with the way it is; that turn over from time to time is not necessarily good; that if you have a good person in office, why should you have to change.

Chairman Murphy noted that we had two previous Councilmembers present today—Ron Swafford and Mayor Littlefield; that Councilman Hakeem had sent us a copy of a letter and had weighed in on this issue. (This letter is made a part of the minute material).

Councilman McGary stated that he was ambivalent on this issue but was concerned about the nature of this conversation—that it had a negative tone and “buzz” words were being used such as “career politician” and “incumbent”, and these were being used in an irresponsible way; that there were some who chose to run only one term and some were elected again; that it was not easy to run; that saying “career politician” was unfair and irresponsible. As to term limits, he questioned what was an adequate amount of time; that he would like to hear a justification for two terms, one term, or even three terms—that this was “fuzzy” to him.

Councilwoman Scott responded that she thought that looking at a relevant amount of time to be on the City Council that four years would be enough time to do what one came to do—that it allows a period of continuity and still keeps it short enough for others to have the opportunity to run; that if we knocked out 75% of our population, we would still have a lot of people able to run; that a lot of people do not have the opportunity to serve, and they could do a good job or maybe a better one than we are doing. She went on to say that the Mayor’s position is term limited and our Boards are term limited; that more citizens would be able to participate; that if a person stays on for four terms—that is 16 years and that limits some from ever running. She mentioned the political strength of an incumbent and to beat an incumbent, one has to have ability—that it is difficult and not an easy thing.

Mayor Littlefield stated that he would not belabor the point; that he was one of the ones that helped to draft this form of government, and they discussed term limits; that it is the height of a national discussion; that they decided that the Mayor should be term limited and should get on with his agenda. He mentioned institutional memory—that if you had term limits on the Council there could be so much turnover that there would be a break in continuity; that he was proud of this Council and believed we had the most diverse Council of any; that everyone worked together well, which was not an accident.

He continued, stating that he served two terms on the Council and finding people to run is not as easy as it sounds; that there is a low threshold to run for office; that if one is a hard worker they could finance their campaign out of their own pocket and win an election. He stated that he thought the system works as it is right now; that he would not get into a debate with his friend because he did not feel that she was likely to change her mind; that he thought this was a good system that is working.

Councilman Benson stated that he had a great deal of respect for Councilwoman Scott's opinion, and she was generally right; that he also appreciated the Mayor's opinion; that he, like Councilman Rico, could not believe that Councilwoman Scott brought this up either; that three on this Council had beat incumbents by a 70% vote; that Councilman McGary, Councilwoman Berz, and himself beat incumbents—that were Chairmen; that it was not impossible—that three out of nine had beat incumbents; that looking at the setup, with the Mayor leaving, we need some continuity; that when we elected six brand new councilmembers, he was Chairman and it was like "herding feral cats". He went on to say that we need people who know about the past—about what works and what does not work; that at first he thought, since he might not be running again, that he would be for this, but he had not thought it through; that he did not think this would be right for the City of Chattanooga.

Councilwoman Robinson stated that everything had been said.

Councilman McGary stated that he was still ambivalent; that what prohibits people from running might be frightening—that some of us had done fine. He mentioned a low voter turnout in March and suggested maybe moving the election to November. Secondly, another contributing factor, he thought, was that the pay is a big turn-off; that those 40 and under have to eat—that there were more criteria than just term limits.

Chairman Murphy noted that Councilwoman Scott's balloon was not floating.

Councilwoman Scott stated that she would just like to have this taken into consideration; that a referendum would allow the people to decide, and we need to look historically how people have voted across the nation; that a predominance of people embrace this; that it was a great privilege to be elected to office one time and would be an incredible honor to be elected the second time—two terms would be eight years; that she would be willing to make it effective starting the next election and not be incumbent on those on the Council now; that a representative would have to go home after eight years. She mentioned the importance of this office, noting that there is ability in this community, and they have as much right and likelihood to run for office, and we ought to encourage this. She urged to put this on the ballot for referendum—that she thought it should be the peoples' decision and not ours.

Councilwoman Berz stated that she thought this was what democracy is all about and people speak by way of their vote; that she had a race against a difficult incumbent; that people wanted change; that four of the Council had gone up against these odds; that the beauty of democracy is that anyone can run, and it takes a lot of hard work; that nothing is keeping people from coming forward; that it takes personal conviction and courage to “walk the talk”; that she would like to follow up on several things—that when people say a preponderance of cities, she needed more details. She mentioned a city like Naples, Florida, where councilmembers are paid \$60,000, and it a full time job—that it is a full time job; that Councilman McGary had mentioned salary—that this was a labor of love and not a position to make money; that she thought everyone on the Council worked over and above just these 3:00 meetings and the 6:00 meeting; that it was more a labor of love, and we were not here to make money but to make a difference; that she would hate to limit this in any way.

Chairman Murphy stated that he saw no other lights and asked if Elder Mountain should be discussed today or wait until next week? Attorney McMahan stated that it would not be ready next week.

APPOINTMENT OF RON SWAFFORD

Mayor Littlefield stated that this would not come as a big surprise; that Al Chapman had already exited from City Government; that he had received a “call” to go back to a charitable program—that this was his calling; that he told him he could not leave until we had a successor for him who could take the reins; that we needed someone with institutional memory, and we looked at people moving from the State and Al Chapman had called him with a great idea—that it is a person we all know who fits the bill—Ron Swafford. He stated that he had copies of his resume; that he had been a long time clerk of Juvenile Court, which is very much like our City Court; that he had also served on this Council as a Chairman; that he had done his due diligence and came to him highly recommended, even by the person who had beaten him in the last election. He again stated that he had copies of his resume and would like the Council to act on this tonight; that they could “grill” him now or talk to him privately, but he would like this brought up tonight.

Chairman Murphy stated that when he was running for office that Mr. Swafford asked him for one thing—to move him back to District 5. He asked him if he was now happy in District 9, and Mr. Swafford answered “yes”.

The meeting adjourned at 4:15 P.m.